

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of C.C., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

VICTOR CONLEY,

Respondent-Appellant,

and

CHERYL KIMBLE-FUHRMAN,

Respondent.

UNPUBLISHED

November 30, 2001

No. 233093

Hillsdale Circuit Court

Family Division

LC No. 00-000411-NA

Before: Doctoroff, P.J., and Wilder and Chad C. Schmucker*, JJ.

MEMORANDUM.

Respondent Victor Conley appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(b)(i), (c)(i), (g) and (j).¹ We affirm.

We review a family court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Trejo Minors*, 462 Mich 341, 356; 612 NW2d 407 (2000). If the court determines that the petitioner has proven by clear and convincing evidence one or more statutory grounds for termination, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *Trejo*, *supra* at 351-354; *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

¹ Respondent Cheryl Kimble-Fuhrman is not a party to this appeal. For purposes of this opinion, the term "respondent" is used to refer to Conley.

* Circuit judge, sitting on the Court of Appeals by assignment.

After reviewing the record, we are satisfied that the trial court did not clearly err in finding that petitioner established one or more grounds for termination. Respondent admitted that the child continued to have contact with the child's mother whose parental rights had been terminated and who respondent was ordered to avoid. This was one of the conditions that led to initiation of this action, and it is apparent that the condition continued to exist and there was no reasonable likelihood that the condition would be rectified within a reasonable time. MCL 712A.19b(3)(c)(i). In addition, petitioner presented clear and convincing evidence that respondent did not and could not provide the emotional support, structure, consistency, attention, and discipline that the child desperately needed. MCL 712A.19b(g) and (j). Although the family court may have erred when it found that termination was warranted under MCL 712A.19b(b)(i), reversal is not required because termination need be supported by only a single statutory ground. *In re SD*, 236 Mich App 240, 247; 599 NW2d 772 (1999). Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the child's best interests. MCL 712A.19(b)(5); *Trejo, supra* at 356-357.

Finally, respondent waived his claim that termination of his parental rights was barred by res judicata because he did not object to the trial court's ruling on that basis. *In re Hensley*, 220 Mich App 331, 335; 560 NW2d 642 (1997). Even if respondent properly preserved this issue, the argument lacks merit because respondent failed to establish that the subject matter of this action is the same as that of the earlier action. *In re Pardee*, 190 Mich App 243, 248; 475 NW2d 870 (1991).

Affirmed.

/s/ Martin M. Doctoroff
/s/ Kurtis T. Wilder
/s/ Chad C. Schmucker